**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P No. 2987 of 2007**
**Date of decision : July 17, 2007**

**Kamaldeep Singh,**

**.....Petitioner**

**through Mr. H.S.Kamboj, Advocate**

**v.**

**Union of India and another,**

**.....Respondents**

**through Mr.S.K.Sharma, Advocate,**

**CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM**
**HON'BLE MR.JUSTICE RAJIVE BHALLA**

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

Prayer in the present writ petition is for the issuance of a writ in the nature of mandamus directing the respondents to renew the petitioner's passport and issue the same to him.

The petitioner applied for renewal of his passport on 20.3.2006 and disclosed his address as House No.3065, Sector 20D, Chandigarh. About a fortnight thereafter, i.e in April 2006, he shifted his residence to Patiala, but apparently failed to inform the passport office of the change of address. The passport, duly renewed, was, therefore, dispatched on

28.4.2006 to the petitioner's Chandigarh address. As the petitioner had already shifted to Patiala, the passport was returned to the Regional Passport Office. On coming to know about the above fact, the petitioner approached respondent No.2 for rectification of his address and also prayed that the passport be sent to his Patiala address.

Respondent No.2, however, imposed a penalty of Rs.5,000/-, alleging that the petitioner had disclosed false/incorrect information in the renewal form. It was directed that the passport could only be released to the petitioner, after he paid the penalty.

Counsel for the petitioner contends that the petitioner never made any false statement to the passport authorities. He applied for renewal of his passport, while residing in Chandigarh and shifted to Patiala in April 2006. By an act of inadvertence, the petitioner forgot to inform respondent No.2 about the change of address. This innocent mistake has been held to be a concealment of material fact. It is contended that the police verification report, relied upon by the respondents, is factually incorrect and the penalty has been imposed, without issuing any show cause notice or affording an opportunity of hearing to the petitioner. It is, therefore, prayed that the order, imposing penalty, be set aside and the petitioner's passport be released.

Counsel for the respondents, however, contends that the petitioner submitted an application for renewal of his passport on 20.3.2006, claiming to be a resident of Chandigarh, whereas the police verification report reveals that he left Chandigarh on 1.3.2006. The application for renewal of passport was filed by concealing relevant information and, therefore, the penalty imposed is legal and valid. The petitioner is,

therefore, entitled to receive his passport only after paying the penalty.

We have heard counsel for the parties and perused the paper book.

The respondents do not deny that the petitioner is entitled to receive his passport. Infact, counsel for the respondents has submitted that the passport is ready and would be released to the petitioner on his payment of penalty of Rs.5,000/-. Thus, the respondents assert that on 20.3.2006, the petitioner, while applying for renewal of his passport, provided a Chandigarh address, whereas infact, he had already shifted to Patiala.

After a considered appraisal of the facts, we are of the opinion that respondent No.2 erred, while passing the impugned order. The conclusion that the petitioner had already shifted to Patiala on 20.3.2006 is based upon a verification report, submitted by the Chandigarh police. The report merely states that "the applicant had resided at the given address (i.e Chandigarh address) from 18.5.1985 to 1.3.2006". Respondent No.2 did not make any attempt to verify the correctness of the aforementioned report and simply passed an order imposing penalty. Respondent No.2 was required to issue a show cause notice to the petitioner and only after considering the reply, if any, could he have passed the impugned order. A penalty, being penal in nature, should only be imposed, where there exists sufficient and cogent material to suggest that the delinquent has violated the rules. No attempt was made by respondent No.2 to verify the facts, before proceeding to pass the order, imposing penalty. No material, other than the police report, was called for or relied upon, before arriving at the conclusion that the petitioner had furnished incorrect information. Such perfunctory reports, in our opinion, could not be the sole ground for

imposing a penalty, more so, where the order is passed without affording an opportunity of hearing to the aggrieved person. Before returning a finding of concealment of relevant material, respondent No.2 should have sought sufficient and cogent material to support his conclusion.

Another matter that merits reference is that as per the respondents, the petitioner did not reside in Chandigarh during March 2006, whereas the petitioner alleges that he shifted to Patiala in April 2006. There was no reason for the petitioner to have disclosed an incorrect address, as no benefit would have accrued to him by disclosing a wrong address. It appears that an inadvertent mistake, on the part of the petitioner, has been incorrectly held to be concealment of a material fact.

The petitioner's assertion of having shifted to Patiala, after March 2006, is supported by an affidavit, filed by his father, who is a practicing Advocate of this Court. We have no reason to doubt the correctness of the deposition in the aforementioned affidavit. We are, thus, satisfied that the petitioner did not conceal any material information that should have attracted the penalty imposed.

We would also like to emphasize that before imposing the penalty, respondent No.2 should, in all fairness, have issued a show cause notice to the petitioner. However, no such notice was issued and no explanation ever sought from the petitioner.

In view of what has been noticed herein above, the order, dated 9.2.2007 (Annexure R-II), is set aside. Respondent No.2 is directed to release the petitioner's passport within a week from the receipt of a certified copy of this order.

The present petition stands disposed of with no order as to costs.

**( RAJIVE BHALLA )**
**JUDGE**

**July 17, 2007.** **( P. SATHASIVAM )**
**`kk'** **JUDGE**